

CLOSED,ECF,NON-AUTISM,PCS,REVIEW,VAPPEAL

US Court of Federal Claims
United States Court of Federal Claims (COFC)
CIVIL DOCKET FOR CASE #: 1:11-vv-00077-LB
Internal Use Only

STILLWELL v. SECRETARY OF HEALTH AND
 HUMAN SERVICES
 Assigned to: Judge Lawrence J. Block
 Referred to: Special Master Lisa Hamilton-Fieldman
 Cause: 42:300 Vaccine Injury Act

Date Filed: 02/07/2011
 Date Terminated: 08/22/2014
 Jury Demand: None
 Nature of Suit: 494 Injury - Influenza
 Jurisdiction: U.S. Government
 Defendant

Petitioner**SHERRIL K STILLWELL**

represented by **Sol P. Ajalat**
 Ajalat & Ajalat
 5200 Lankershim Boulevard
 Suite 850
 North Hollywood, CA 91601
 (818) 506-1500
 Fax: (818) 506-1061
 Email: Sol@ajalatlaw.com
ATTORNEY TO BE NOTICED

V.

Respondent**SECRETARY OF HEALTH AND
 HUMAN SERVICES**

represented by **Alexis B Babcock**
 U. S. Department of Justice - Vaccine
 Vaccine/Torts Branch, Civil Division
 P.O. Box 146
 Benjamin Franklin Station
 Washington, DC 20044-1046
 (202) 616-7678
 Fax: (202) 616-4310
 Email: alexis.babcock@usdoj.gov
ATTORNEY TO BE NOTICED

| Date Filed | # | Docket Text |
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| 10/14/2014 |  48 | CAFC Notice of Review, with CAFC case no. 2015-5005. (hw1) (Entered: 10/17/2014) |
| 09/05/2014 | 47 | REISSUED, REPORTED VACCINE OPINION--Filed this date. Signed by Judge Lawrence J. Block. (smm) (Entered: 09/05/2014) |
| 08/22/2014 |  46 | JUDGMENT entered pursuant to Appendix B, Rule 30, that the petition |

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| | | is dismissed. (Copy to parties) (lld) (Entered: 08/22/2014) |
| 08/21/2014 |  45 | OPINION denying Motion for Review. Parties have until Thursday, 9/4/14 to propose any redactions. The Clerk is directed to enter judgment. Signed by Judge Lawrence J. Block. (smm) (Entered: 08/21/2014) |
| 09/23/2013 |  44 | NOTICE of Reassignment. Case reassigned to Special Master Lisa Hamilton-Fieldman for all further proceedings. Chief Special Master Patricia E. Campbell-Smith no longer assigned to the case. (Neal, Alonzo) (Entered: 09/24/2013) |
| 09/23/2013 | 43 | ORDER REASSIGNING CASE to Special Master Lisa Hamilton-Fieldman. (Signed by Chief Special Master Denise Kathryn Vowell.) (mpj) Copy to parties. (Entered: 09/23/2013) |
| 08/05/2013 |  42 | RESPONSE to 40 MOTION for Review of 34 DECISION of Special Master <i>Patricia Campbell-Smith</i> , filed by SECRETARY OF HEALTH AND HUMAN SERVICES. (Babcock, Alexis) (Entered: 08/05/2013) |
| 07/09/2013 | | Case assigned to Judge Lawrence J. Block. (dls) (Entered: 07/10/2013) |
| 07/09/2013 |  41 | NOTICE of Assignment to Judge Lawrence J. Block. (dls) (Entered: 07/10/2013) |
| 07/09/2013 |  40 | MOTION for Review of 34 DECISION of Special Master <i>Patricia Campbell-Smith</i> , filed by SHERRIL K STILLWELL. Response due by 8/8/2013. (Ajalat, Sol) (Entered: 07/09/2013) |
| 06/27/2013 |  39 | NOTICE, filed by SHERRIL K STILLWELL re 38 Judgment on Attorney Fees <i>Election to Accept Judgment Re: Interim Fees and Costs</i> (Ajalat, Sol) (Entered: 06/27/2013) |
| 06/27/2013 |  38 | JUDGMENT entered pursuant to Vaccine Rule 11(a), that petitioner is awarded attorneys fees and costs in the lump sum amount of \$97,500.00. (Copy to parties) (lld) (Entered: 06/27/2013) |
| 06/21/2013 |  37 | JOINT NOTICE Not to Seek Review, filed by All Parties re 36 DECISION of Special Master - Interim Attorney's Fees . (Ajalat, Sol) (Entered: 06/21/2013) |
| 06/21/2013 |  36 | DECISION of Special Master - Interim Attorneys' Fees and Costs. Signed by Chief Special Master Patricia E. Campbell-Smith. (Johnson, Philip) Copy to parties. (Entered: 06/21/2013) |
| 06/21/2013 |  35 | STIPULATION for Fees (<i>Interim</i>), filed by All Parties. (Ajalat, Sol) (Entered: 06/21/2013) |
| 06/17/2013 |  34 | DECISION. Signed by Chief Special Master Patricia E. Campbell-Smith. (Johnson, Philip) Copy to parties. (Entered: 06/17/2013) |
| 03/11/2013 | | Informal Communication (Remark) from petitioner's counsel inquiring when a decision would issue in this matter. Petitioner's counsel was again informed that the case was under active consideration. Signed by Chief Special Master Patricia E. Campbell-Smith. (cc2) Copy to |

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| | | parties. (Entered: 03/11/2013) |
| 10/25/2012 | | Informal Communication (Remark) from petitioner's counsel to inquire as to the status of the case. Counsel was informed by chambers staff that the case was under active consideration. (cc2) Copy to parties. (Entered: 10/25/2012) |
| 08/28/2012 | 33 | POST TRIAL BRIEF - <i>REPLY BRIEF</i> , filed by SHERRIL K STILLWELL. (Ajalat, Sol) (Entered: 08/28/2012) |
| 08/17/2012 | 32 | POST HEARING BRIEF by SECRETARY OF HEALTH AND HUMAN SERVICES. (Babcock, Alexis) (Entered: 08/17/2012) |
| 06/28/2012 | 31 | POST TRIAL BRIEF, filed by SHERRIL K STILLWELL. (Ajalat, Sol) (Entered: 06/28/2012) |
| 05/03/2012 |  30 | TRANSCRIPT of Proceedings held on March 30, 2012 before Chief Special Master Patricia Campbell-Smith. Total No. of Pages: 1-189. Procedures Re: Electronic Transcripts and Redactions . For copy, contact Heritage Court Reporting, (202) 628-4888. Forms to Request Transcripts . Release of Transcript Restriction set for 8/2/2012. (dw1) (Entered: 05/03/2012) |
| 05/03/2012 | 29 | Notice Of Filing Of Certified Transcript for proceedings held on March 30, 2012 in Washington, DC. (dw1) (Entered: 05/03/2012) |
| 04/23/2012 |  28 | SCHEDULING ORDER: Pursuant to the status conference conducted on 4/18/2012 and as set forth in greater detail in the underlying order, the parties have agreed to the following briefing schedule: (1) on or before 6/29/2012, petitioner's counsel shall file a post-hearing brief; (2) on or before 8/17/2012, respondent's counsel shall file a response; and (3) on or before 9/17/2012, petitioner's counsel shall file a reply. Signed by Chief Special Master Patricia E. Campbell-Smith. (vl) Copy to parties. (Entered: 04/23/2012) |
| 04/18/2012 | | Minute Entry for proceeding held in Washington, DC on 4/18/2012 held before Chief Special Master Patricia E. Campbell-Smith: A Status Conference was held on 4/18/2012 from 1:00 PM to 1:20 PM (EST). Mr. Ajalat represented petitioner and Ms. Babcock represented respondent. [Total number of days of proceeding: 1]. Proceeding was not officially recorded (For parties in the case only, click HERE for link to Court of Federal Claims web site forms page for information on ordering: certified transcript from reporter or certified transcript of proceeding from official digital recording.)(vl) (Entered: 04/18/2012) |
| 04/02/2012 | | STATUS CONFERENCE ORDER: A Status Conference is set for 4/18/2012 at 01:00 PM (EST) in Chambers (Telephonic) before Chief Special Master Patricia E. Campbell-Smith. NON-PDF ORDER. Signed by Chief Special Master Patricia E. Campbell-Smith. (vl) Copy to parties. (Entered: 04/02/2012) |
| 03/30/2012 | | Minute Entry for proceeding held in Washington, DC on 3/30/2012 held before Chief Special Master Patricia E. Campbell-Smith: An expert |

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| | | hearing was held on 3/30/2012 from 10:00 AM to 3:35 PM (EST). Mr. Ajalat represented petitioner and Ms. Babcock and Ms. Kilfoyle represented respondent. [Total number of days of proceeding: 1]. Official record of proceeding taken by court reporter (For parties in the case only, click HERE for link to Court of Federal Claims web site forms page for information on ordering: certified transcript from reporter or certified transcript of proceeding from official digital recording.)(vl) (Entered: 03/30/2012) |
| 03/29/2012 | 27 | ADDITIONAL DOCUMENTATION by SHERRIL K STILLWELL. (Attachments: # 1 Exhibit ADEM Confined to Brainstem (2002), # 2 Exhibit Comparative Brain Stem Lesions on MRI... (2011))(Ajalat, Sol) (Entered: 03/29/2012) |
| 03/29/2012 | | SCHEDULING ORDER: Upon further review of the record in preparation for the hearing in this case, the court noticed that two articles of medical literature - specifically, the Lu, et al. and the Taeishi, et al. articles - were not filed with petitioner's supplemental expert report. Petitioner's counsel is hereby directed to file the missing medical literature as expeditiously as possible. NON-PDF ORDER. Signed by Chief Special Master Patricia E. Campbell-Smith. (vl) Copy to parties. (Entered: 03/29/2012) |
| 03/29/2012 | | Informal Communication (Remark) from Petitioner's Counsel: On 3/29/2012, the court spoke with a colleague of petitioner's counsel regarding two articles of medical literature that were not filed with petitioner's supplemental expert literature. The court directed petitioner's counsel to file the missing medical literature as soon as possible. Signed by Chief Special Master Patricia E. Campbell-Smith. (vl) Copy to parties. (Entered: 03/29/2012) |
| 03/28/2012 | 26 | NOTICE OF FILING Curriculum Vitae for expert witness, Marcel Kinsbourne by SHERRIL K STILLWELL. (Ajalat, Sol) (Entered: 03/28/2012) |
| 03/28/2012 | | SCHEDULING ORDER: Based on further review of the record, it does not appear that petitioner's counsel has filed a curriculum vitae for petitioner's expert witness in this case. On or before 3/29/2012, petitioner's counsel shall file the curriculum vitae for his expert witness. NON-PDF ORDER. Signed by Chief Special Master Patricia E. Campbell-Smith. (vl) Copy to parties. (Entered: 03/28/2012) |
| 03/01/2012 | 25 | Witness List, filed by SHERRIL K STILLWELL. (Ajalat, Sol) (Entered: 03/01/2012) |
| 12/15/2011 | 24 | PREHEARING ORDER: Hearing set for 3/30/2012 at 10 AM (eastern time) in Washington, D.C., at the Office of Special Masters. Petitioner's counsel shall submit anticipated witness list on or before 3/2/2012. If a party intends to rely on any documents other than those already filed with the court, those documents shall be filed and served by 3/2/2012. Signed by Chief Special Master Patricia E. Campbell-Smith. (vl) Copy to parties. (Entered: 12/15/2011) |

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| 12/15/2011 | 23 | ORDER: The parties received respondent's supplemental expert report. The parties are encouraged to renew their efforts to resolve the case informally as they prepare for the hearing scheduled for 3/30/2012. Signed by Chief Special Master Patricia E. Campbell-Smith. (vl) Copy to parties. (Entered: 12/15/2011) |
| 12/13/2011 | 22 | EXPERT REPORT of Jeffrey Cohen, M.D. (Ex. no. C) filed by SECRETARY OF HEALTH AND HUMAN SERVICES. (Attachments: # 1 Exhibit C)(Babcock, Alexis) (Entered: 12/13/2011) |
| 12/07/2011 | | SCHEDULING ORDER: re 16 Scheduling Order: Respondent was directed to file a supplemental expert report on 12/2/2011. To date, no filing has been received. Respondent shall file respondent's supplemental expert report or a motion for enlargement of time on or before 12/16/2011. NON-PDF ORDER. Signed by Chief Special Master Patricia E. Campbell-Smith. (cc2) Copy to parties. (Entered: 12/07/2011) |
| 11/07/2011 | | ORDER declaring petitioner's counsel's motion for an enlargement of time to file his expert report moot. Petitioner's expert report was timely filed on November 4, 2011. NON-PDF ORDER. Signed by Chief Special Master Patricia E. Campbell-Smith. (cc2) Copy to parties. (Entered: 11/07/2011) |
| 11/04/2011 | 21 | EXPERT REPORT of Kinsbourne (Ex. no. 9) filed by SHERRIL K STILLWELL. (Attachments: # 1 Exhibit Supplemental Report (Kinsbourne), # 2 Exhibit The Brighton Collaboration Encephalitis Working Group (Sejvar et al., 2007))(Ajalat, Sol) (Entered: 11/04/2011) |
| 11/04/2011 | 20 | STATUS REPORT, filed by SHERRIL K STILLWELL. (Ajalat, Sol) (Entered: 11/04/2011) |
| 10/21/2011 | 19 | NOTICE OF FILING Joint Statement of Facts by SECRETARY OF HEALTH AND HUMAN SERVICES. (Babcock, Alexis) (Entered: 10/21/2011) |
| 10/12/2011 | 18 | NOTICE, filed by SHERRIL K STILLWELL <i>Intent to Remain in Program</i> (Ajalat, Sol) (Entered: 10/12/2011) |
| 10/07/2011 | 17 | ORDER re: The statutory 240-day time period for the special master's issuance of a decision in this case has expired. Petitioner may submit a notice continuing or withdrawing the petition and such notice shall be filed within 30 days. Signed by Chief Special Master Patricia E. Campbell-Smith. (tlj) Copy to parties. (Entered: 10/07/2011) |
| 09/26/2011 | | ERRATA correcting Order: A hearing will be held on Friday, March 30, 2012 in the District of Columbia at the office of Special Masters. Signed by Chief Special Master Patricia E. Campbell-Smith. [NON-PDF](tlj) Copy to parties. (Entered: 09/26/2011) |
| 09/23/2011 | | ORDER: A hearing will be held on March 30, 2012 in Phoenix, Arizona at a location to be determined. Signed by Chief Special Master Patricia E. Campbell-Smith. [NON-PDF](tlj) Copy to parties. (Entered: 09/23/2011) |

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| 09/09/2011 | 16 | SCHEDULING ORDER: The parties' joint stipulation of facts and a joint status report regarding potential hearing dates are due by 10/21/2011. Petitioner's supplemental expert report is due by 11/4/2011. Respondent's supplemental expert report is due by 12/2/2011. Signed by Chief Special Master Patricia E. Campbell-Smith. (cc2) Copy to parties. (Entered: 09/09/2011) |
| 09/08/2011 | | Minute Entry for proceeding held in the District of Columbia on 9/7/2011 from 11:30 a.m. until 11:50 a.m. Sol Ajalat, petitioner and Alexis Babcock, respondent participated in the conference call held before Chief Special Master Patricia E. Campbell-Smith: Status Conference held on 9/7/2011. [Total number of days of proceeding: 1]. Proceeding was not officially recorded (For parties in the case only, click HERE for link to Court of Federal Claims web site forms page for information on ordering: certified transcript from reporter or certified transcript of proceeding from official digital recording.)(tlj) (Entered: 09/08/2011) |
| 09/01/2011 | | ORDER suspending the filing deadline of a joint status report on 9/2/11 pending the conduct of a status conference on 9/7/2011 at 11:30 AM. NON-PDF ORDER. Signed by Chief Special Master Patricia E. Campbell-Smith. (cc2) Copy to parties. (Entered: 09/01/2011) |
| 08/12/2011 | 15 | SCHEDULING ORDER: Joint Status Report regarding hearing dates due by 9/2/2011. Petitioner's Supplemental Expert Report due by 10/14/2011. Respondent's Sur-reply is due by 12/2/11. NON-PDF ORDER. Signed by Chief Special Master Patricia E. Campbell-Smith. (cc2) Copy to parties. (Entered: 08/12/2011) |
| 08/09/2011 | | Minute Entry for proceeding held in Washington, DC on 8/9/2011 held before Chief Special Master Patricia E. Campbell-Smith: A Status Conference was held on 8/9/2011 from 12:00 until 12:30 PM. Mr. Sol Ajalat represented petitioner and Ms. Alexis Babcock represented respondent.. [Total number of days of proceeding: 1]. Proceeding was not officially recorded (For parties in the case only, click HERE for link to Court of Federal Claims web site forms page for information on ordering: certified transcript from reporter or certified transcript of proceeding from official digital recording.)(cc2) (Entered: 08/09/2011) |
| 08/02/2011 | | SCHEDULING ORDER: Status Conference set for 8/9/2011 at 12:00 PM in Chambers (Telephonic) before Chief Special Master Patricia E. Campbell-Smith. NON-PDF ORDER. Signed by Chief Special Master Patricia E. Campbell-Smith. (cc2) Copy to parties. (Entered: 08/02/2011) |
| 07/19/2011 | 14 | EXPERT REPORT of Jeffrey Cohen, M.D. (Ex. no. A) filed by SECRETARY OF HEALTH AND HUMAN SERVICES. (Attachments: # 1 Exhibit A, # 2 Appendix 1 to Exhibit A, # 3 Appendix 2 to Exhibit A, # 4 Appendix 3 to Exhibit A, # 5 Appendix 4 to Exhibit A, # 6 Appendix 5 to Exhibit A, # 7 Appendix 6 to Exhibit A, # 8 Appendix 7 to Exhibit A, # 9 Appendix 8 to Exhibit A, # 10 Appendix 9 to Exhibit A, # 11 Exhibit B)(Babcock, Alexis) (Entered: 07/19/2011) |

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| 05/24/2011 | 13 | SCHEDULING ORDER: Respondent's Expert Report due by 7/19/2011. Signed by Chief Special Master Patricia E. Campbell-Smith. (cc2) Copy to parties. (Entered: 05/24/2011) |
| 05/19/2011 | | Minute Entry for proceeding held in Washington, DC on 5/19/2011 held before Chief Special Master Patricia E. Campbell-Smith: A Status Conference was held on 5/19/2011 from 2:30 until 3:00 PM. Mr. Sol Ajalat represented petitioner and Ms. Alexis Babcock represented respondent.. [Total number of days of proceeding: 1]. Proceeding was not officially recorded (For parties in the case only, click HERE for link to Court of Federal Claims web site forms page for information on ordering: certified transcript from reporter or certified transcript of proceeding from official digital recording.)(cc2) (Entered: 05/19/2011) |
| 05/19/2011 | | SCHEDULING ORDER: Scheduling Conference set for 5/19/2011 02:30 PM in Chambers (Telephonic) before Unassigned. Signed by Chief Special Master Patricia E. Campbell-Smith. (tlj) Copy to parties. (Entered: 05/19/2011) |
| 05/11/2011 | | Compact Disc Received by the Clerk's Office. (Neal, Alonzo) (Entered: 05/11/2011) |
| 05/10/2011 | 12 | NOTICE of Intent to File on Compact Disc pursuant to Vaccine General Order #13 filed by SHERRIL K STILLWELL. Compact Disc due by 5/16/2011. (Ajalat, Sol) (Entered: 05/10/2011) |
| 05/10/2011 | 11 | EXPERT REPORT of Marcel Kinsbourne, M.D. (Ex. no. 08) filed by SHERRIL K STILLWELL. (Ajalat, Sol) (Entered: 05/10/2011) |
| 05/09/2011 | 10 | Respondent's Report, filed by SECRETARY OF HEALTH AND HUMAN SERVICES. (Babcock, Alexis) (Entered: 05/09/2011) |
| 04/08/2011 | 8 | STATEMENT of Completion by SHERRIL K STILLWELL. (Ajalat, Sol) (Entered: 04/08/2011) |
| 04/05/2011 | 7 | SCHEDULING ORDER: Respondents Report due by 4/5/2011. Signed by Special Master Patricia E. Campbell-Smith. (cc2) Copy to parties. (Entered: 04/05/2011) |
| 04/04/2011 | | Minute Entry for proceeding held in Washington, DC on 4/1/2011 held before Special Master Patricia E. Campbell-Smith: A Status Conference was held on 4/1/2011. Mr. Sol Ajalat represented petitioner and Ms. Alexis Babcock represented respondent.. [Total number of days of proceeding: 1]. Proceeding was not officially recorded (For parties in the case only, click HERE for link to Court of Federal Claims web site forms page for information on ordering: certified transcript from reporter or certified transcript of proceeding from official digital recording.)(cc2) (Entered: 04/04/2011) |
| 03/28/2011 | 9 | SCHEDULING ORDER: Status Conference set for 4/1/2011 at 02:30 PM in Chambers (Telephonic) before Special Master Patricia E. Campbell-Smith. The court will contact the parties to initiate the call. Signed by Special Master Patricia E. Campbell-Smith. (cc2) Copy to |

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| | | parties. (Neal, Alonzo). (Entered: 03/28/2011) |
| 02/16/2011 | 6 | NOTICE of Designation of Electronic Case. (Neal, Alonzo) (Entered: 02/17/2011) |
| 02/16/2011 | 5 | ORDER: On February 15,2011, petitioner's counsel made an oral motion to convert the above-captioned case to ECF filing. Petitioner's request is GRANTED. Signed by Special Master Patricia E. Campbell-Smith. (Neal, Alonzo) (Neal, Alonzo). (Entered: 02/17/2011) |
| 02/15/2011 | 4 | SCHEDULING ORDER:: Rule 4(c) Report, which in this case is due 5/8/11. The court will conduct a conference call with the parties within approximately 45 days after the Petition's filing date of 2/7/11, to discuss requests for records, legal impediments to the claim such as jurisdictional roadblocks, the need for medical testing, suggested procedures for resolving the dispute, and any other matter the parties deem relevant. Petitioners should beware of this consequence, which has ensnared petitioners in the past. Signed by Special Master Patricia E. Campbell-Smith. (Neal, Alonzo) (Neal, Alonzo). (Entered: 02/17/2011) |
| 02/15/2011 | 3 | NOTICE of Appearance by Alexis B Babcock for SECRETARY OF HEALTH AND HUMAN SERVICES.. Service: 2/15/11.(Neal, Alonzo) (Neal, Alonzo). (Entered: 02/16/2011) |
| 02/07/2011 | 2 | NOTICE of Assignment to Special Master Patricia Campbell-Smith. (Neal, Alonzo) (Neal, Alonzo). (Entered: 02/08/2011) |
| 02/07/2011 | 1 | PETITION against SECRETARY OF HEALTH AND HUMAN SERVICES (Filing fee \$350, Receipt number 071906) [Vaccination date: 2/22/08], filed by SHERRIL K STILLWELL. Notice of Filing Documents on CD, Exhibit 1-7.Respondents Report due by 5/9/2011. (Neal, Alonzo) (Neal, Alonzo). (Entered: 02/08/2011) |